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09/214,047	07/12/1999	DIETER MULLER	M-1492	6071

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EXAMINER

SHARAREH, SHAHNAM J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 12/04/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

Supplemental Examiner's Answer

Pursuant to the Remand under 37 CFR 1.193(b)(1) by the Board of Patent Appeals and Interferences ("The Board") on September 22, 2003, a supplemental Examiner's Answer is set forth below:

The Board has requested that the examiner provide a copy of the English Translation of Brenner ("The Translation") to Appellants, and make such of record. *see the decision filed on September 22, 2003 at page 1.* Accordingly, the attached PTO-892 form is submitted to the applicant to meet the Board's request.

The Board has further indicated that the record does not indicate that (1) the examiner reviewed the full translation and (2) that appellant was given an opportunity to respond to the content of a full translation.

As it has been recognized by the Board, the document in question is pertinent to the rejection of claim 1 under 35 USC 102(b) over a German foreign reference (Brenner).

Examiner's further clarification of this rejection does not constitute a new ground of rejection, because no additional claim is rejected over this art. More over, the information within the Translation merely serves as cumulative evidence to Examiner's position. Thus, no attempts were made to reopen prosecution of application.

Please note that the original rejection, Paper No. 6, is made over the entire cited reference, even though only the abstract was cited. Given the fact that the Applicant is a citizen of Germany, and the cited reference is in German language, Examiner believes that Applicant was in notice of relevant information within the reference

Art Unit: 1617

throughout the prosecution. Therefore, reopening prosecution was deemed unnecessary.

The following explanations further clarifies Examiner's position for the rejection of claim 1 under 35 U.S.C. 102(b) as being anticipated by Berner et al DE 3419055.

The rejection of record first assessed the scope of the claim to be directed towards a pharmaceutically administrable form comprising a bioresonance spectrum of a medical compound. *Examiner's Answer, at page 9*. The rejection also recognized that the claim was drafted in the form of a product-by-process claim. *Id.* Thus, the claim was rejected to the extent that the instant products read on magnetic tapes containing electromagnetic spectrum. The originally submitted English Abstract of DE 3419055 provides for such teaching. *See the English Abstract*.

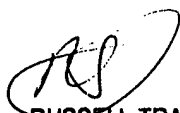
Nevertheless, the following portions of the Translation is discussed to additionally support for Examiner's position and further give Appellant an opportunity to respond. At page 3, claim 5, the Translation states "that the magnetic foil of Brenner contains magnetic particles that are covered by a flexible diamagnetically and electromagnetically acting layer. Therefore, Brenner's magnetic foil contains an electromagnetic spectrum. *See figure 1, elements 10-14*. Page 6-7 of the Translation indicates that the effects of substances such as medicinal drugs depend upon their electromagnetic oscillation, and that biological systems have the advantage to carry out the resonance tuning from $10 - 10^{15}$ Herz. Please note that such frequency is also the same spectrum that is used in generating the instantly claimed electromagnetic


Art Unit: 1617

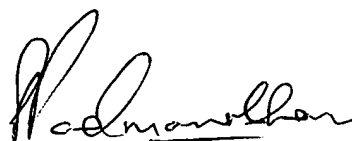
spectrum on the claimed pharmaceutical administrable forms. Finally, Brenner concluded that transfer of the information from medicinal drugs is possible.

Brenner also states that since kinetic energy is dependent upon the frequency, his foil sheets with a defined specific oscillation can be delivered to the organism. Accordingly, Examiner has maintained his position that Brenners' adhesive tapes contain an electromagnetic spectrum within the scope of the instant claims and therefore anticipate the instant product of claim 1.

Respectfully submitted,


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SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

12/2/03